IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION CIVIL DOCKET NO. 5:10CV83-RLV

STEPHEN KEITH POSTON,)
Plaintiff,)
)
V.) Memorandum and Order
)
TRACY W. JOHNS, LEE COLLINS,)
and ALLEN LAWSON,)
Defendants.)
)

THIS MATTER is before the Court upon Order and Memorandum and Recommendation of U.S. Magistrate Judge, David C. Keesler, as well as two subsequent filings of the *Pro Se* Plaintiff, Stephen Keith Poston ("Poston"). (Docs. 4, 6-7).

The magistrate judge has respectfully recommended that the instant lawsuit be dismissed without prejudice in light of Poston's failure to effect timely service and his failure to prosecute his case over a nineteen (19) month period. In response, Poston, who is a paraplegic and confined to a wheelchair, asserts that during the pendency of this litigation, he has suffered from a variety of medical issues and been hospitalized on multiple occasions. (Docs. 6, 7). With respect to his role as a litigant generally, Poston represents that he "d[oes] not understand many issues with this civil suit" and claims that he has sought out help "9 different times." (Docs. 6, 7). Accepting Poston's recitations as true, the length of time this matter has been inactive weighs heavily in favor of dismissal, particularly given that *no action* was taken by Poston until the Deputy Clerk issued a "Notice of Lack of Prosecution." The undersigned agrees with the magistrate judge that "good cause" has not been established for Poston's failure to adhere to the federal civil rules. See Fed. R. Civ. P. 4(m).

The Court finds that the magistrate judge's factual findings and legal conclusions are supported by the record, the Federal Rules of Civil Procedure, and the applicable law. Accordingly, the Memorandum and Recommendation, which is incorporated by reference, will be adopted for all purposes related to this case.

IT IS, THEREFORE, ORDERED that this civil action is hereby DISMISSED without prejudice.

Signed: November 13, 2012

Richard L. Voorhees United States District Judge